



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

46468

FAX NO'S 301 - FTS - 504-2260
504-2259
504-1137

VERIFICATION NO. 301 - 504-2262

PLEASE CHECK ONE - LOCAL () LONG DISTANCE (✓)

PLEASE TYPE OR USE BOLD FELD TIP PIN.

(TELECOPIES WILL NOT BE RETURNED)

	TO	LOCATION
1.	RANDY STURGEON	EPA - REGION III - PHILADELPHIA
	FAX # (215) 597-9890	VERIFICATION (215) 597-0978
2.		
	FAX #	VERIFICATION
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	FAX #	VERIFICATION
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	FAX #	VERIFICATION
5.		
	FAX #	VERIFICATION

NUMBER OF PAGES 4 AND COVER SHEET

FROM MICHAEL WEBER PHONE EXT. (301) 504-1298

ATTACHED IS THE TYPE OF DEED REFINANCE
WE ARE CONSIDERING FOR ANOTHER THORIUM WASTE
DISPOSAL IN MICHIGAN. THIS IS A PUBLIC DOCUMENT.

Mik Weber

AR321291

DECLARATION OF RESTRICTIVE COVENANTS

The Dow Chemical Company ("Dow"), a Delaware corporation with executive offices at 2030 Dow Center, Midland, Michigan 48674 is the record owner of the following described premises located in Midland Township, Midland County, Michigan, to wit:

SEE ATTACHED EXHIBIT A FOR A LEGAL DESCRIPTION AND EXHIBIT B FOR A DIAGRAM OF THE PROPERTY.

Dow is in the process of constructing a landfill cell on the property described in Exhibit A for the permanent disposal of radioactive thorium-bearing material pursuant to a license granted by the United States Nuclear Regulatory Commission ("NRC") under 10 CFR 20.302.

Now, therefore, these restrictive covenants are executed by Dow to insure the long-term integrity of the disposal facility for the safety of the people of the state of Michigan, to wit:

(1) These covenants shall be in addition to those restrictive covenants currently on record affecting the above-described premises, and recorded at Liber 496, Pages 540 through 542, and Liber 537, Pages 406 through 409, Midland County Records.

(2) Any reference herein to the NRC shall be deemed to include any successor to the NRC regulatory functions affecting the above-described premises.

(3) No excavation or construction, except as necessary to maintain the integrity of the above-described premises shall be allowed after the thorium-bearing material is disposed of and the cell closed.

(4) No uses of the property shall be made which may impair its integrity. Any change in use following closure of the cell shall require the prior written consent of the NRC, or its successor, which shall not be unreasonably withheld.

(5) Dow shall erect, and it and its successors in interest, shall thereafter continuously maintain a metal monument placed on the above-described property, said monument to be approved by the NRC, or its successor, to warn of the presence of radioactive thorium-bearing material at the site.

(6) Dow shall notify the NRC, or its successor, of its intent to convey any interest in the property described herein. Such conveyance shall not be made without the prior written approval of the NRC, or its successor, provided however that such approval by the NRC, or its successor, is not to be unreasonably withheld. No conveyance of title,

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easement or other interest in the property shall be consummated by Dow without adequate and complete provision for continued maintenance of the property.

(7) Any local, state or federal governmental agency, or any adjoining landowner to the property described herein affected by any violations of these restrictive covenants, may enforce them by legal action in the Circuit Court for Midland County.

(8) Dow agrees that any of the parties mentioned in the previous paragraph may obtain an immediate temporary restraining order from the Circuit Court upon an allegation that these restrictive covenants have been violated without any further showing being required. Dow shall then bear the burden of proof as to why such temporary restraining order should not be made a permanent injunction by the Court; Dow agrees not to contest the issuance of a permanent injunction unless it has the written concurrence of the NRC or its successor.

(9) Dow, its successors and assigns shall not at any time institute legal proceedings, by way of quiet title or otherwise, to remove or amend these restrictive covenants unless the NRC, or its successor, has given Dow advance written approval.